

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 14880 of 2014 (H)

PETITIONER:

**PRANESH, AGED 38 YEARS
S/O.RAJENDRAN, RESIDING AT CNC (HOUSE), ATHICODE
PANAYUR, POLPULLY VILLAGE, PALAKKAD TALUK
REPRESENTED BY POWER OF ATTORNEY HOLDER RAJENDRAN
S/O.CHINNASWAMY PILLAI
CNC (H), ATHICODE, PANAYUR
POLPULLY VILLAGE, PALAKKAD TALUK.**

**BY ADVS.SMT.P.DEEPTHI
SRI.SABU JOHN**

RESPONDENT(S):

**CHITTUR-THATHAMANGALAM MUNICIPALITY
REPRESENTED BY THE SECRETARY, CHITTUR
THATHAMANGALAM MUNICIPALITY, CHITTUR P.O.
PALAKKAD-678001.**

**R1 BY ADV. SRI.K.P.VJAYAN
R1 BY ADV. SRI.V.N.HARIDAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE POWER OF ATTORNEY DATED 07/09/2013.

EXHIBIT-P2: TRUE COPY OF THE PERMIT ISSUED BY THE 1ST RESPONDENT AS PER
PERMIT NO.BA/40/12-13 DATED 11/06/12.

EXHIBIT-P3: TRUE COPY OF THE PLAN CERTIFIED BY THE RESPONDENT.

EXHIBIT-P4: TRUE COPY OF THE SALE DEED DATED 17/05/2012 SALE DEED
NO.1958/01/12.

EXHIBIT-P5: TRUE COPY OF THE TAX RECEIPT DT.30/01/14.

EXHIBIT-P6: TRUE COPY OF THE POSSESSION CERTIFICATE NO.5342487 OF THE
CHITTUR VILLAGE DT.30/01/14.

EXHIBIT-P7, 7(A), 7(B)&7(C) TRUE COPY OF THE SAID PHOTOGRAPH SHOWING THE
NEARBY HOUSES, PLOT ANE THE CONSTRUCTION IN
THE PROPERTY.

EXHIBIT-P8: TRUE COPY OF THE APPLICATION DATED 19/02/2014/

EXHIBIT-P8(A): TRUE COPY OF THE PLAN DATED 19/02/2014.

EXHIBIT-P9: TRUE COPY OF THE SALE DEED NO.364/01/2014 DATED 30/01/14.

EXHIBIT-P10: TAX RECEIPT DT.31.01/2014.

EXHIBIT-P11: TRUE COPY OF THE POSSESSION CERTIFICATE NO.5365498
DT.31/01/2014.

EXHIBIT-P12: TRUE COPY OF THE ORDER DT.21/02/14 BEARING NO.E2-2106/14.

RESPONDENT(S)' EXHIBITS

EXHIBIT R(A):COPY OF THE G.O.NO.4545/RA/1/11 DATED 22.1.2011 ISSUED BY THE
GOVERNMENT.

/TRUE COPY/

P.A. TO JUDGE

SKV

P.V.ASHA, J.

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W.P.(C). No.14880 OF 2014

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Dated this the 4th day of June, 2015

JUDGMENT

The petitioner is challenging Ext.P12 notice issued by the respondent Municipality by which his request for approval of his revised building plan has been rejected on the ground that the property in which construction is to be carried out is described as “Nilam”.

2. The respondent has filed a counter affidavit stating in paragraph 3(b) as follows:–

“It is respectfully submitted that as per all the relevant records including the related title deeds the property of the petitioner where permission to construct the house vide Ext.P2 permit was granted was a “nilam”; although no cultivation was being carried on therein for about last 10 years. Hence, the permit was issued strictly following the provisions and procedure contained in the G.O.No.4545/RA/1/11 dated 22.1.2011. A true copy of the said G.O.No.4545/RA/1/11 dated 22.1.2011 is produced herewith marked Exhibit. R(a). It is respectfully submitted that Ext.P2 was to construct a two storied residential building (G+F) as per Ext.P3 plan with a total plinth area of 284.90 M2.”

3. Further in paragraph 5, it is pointed out by the respondents that permit can be issued by the respondent only after obtaining sanction either under Kerala Land Utilisation Order or under the Kerala Conservation of the Paddy Land and Wet Land Act, 2008.

4. In view of the fact that the property has been described as “Nilam” especially when the case of the petitioner is that no cultivation is being carried out there for the last more than 20 years, it is for the petitioner to approach the appropriate authorities under the Kerala Land Utilisation Order or under the Kerala Conservation of the Paddy Land and Wet Land Act, 2008.

Therefore giving the liberty to petitioner to approach the Revenue Authorities for the aforesaid remedies and to approach the Corporation thereafter, this writ petition is closed.

P.V.ASHA, JUDGE